

FILED
UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ROBERT PADILLA, a.k.a. "Fat Head,"
and **GARY COCA,**

Defendants.

CRIMINAL NO. 22-CR-634 JB

Count 1: 18 U.S.C. § 1959(a)(1): Violent
Crimes in Aid of Racketeering (Murder);
18 U.S.C. § 2: Aiding and Abetting;

Count 2: 18 U.S.C. § 1513(a)(1)(B):
Retaliating Against a Witness, Victim,
and Informant; 18 U.S.C. § 2: Aiding and
Abetting;

Count 3: 21 U.S.C. § 848(e)(1)(A):
Killing While Engaged in Drug
Trafficking; 18 U.S.C. § 2: Aiding and
Abetting;

Count 4: 18 U.S.C. §§ 924(c)(1)(A)(ii),
(iii), and 924(j)(1): Using, Carrying and
Brandishing a Firearm During and in
Relation to a Drug Trafficking Crime;
Possessing and Brandishing a Firearm in
Furtherance of Such Crime; Discharging
Said Firearm; and Causing Death Through
Use and Possession of a Firearm; 18
U.S.C. § 2: Aiding and Abetting;

Count 5: 18 U.S.C. § 1512(a)(2)(C):
Witness Tampering; 18 U.S.C. § 2:
Aiding and Abetting;

Count 6: 21 U.S.C. § 846: Conspiracy;

Count 7: 21 U.S.C. §§ 841(a)(1) and
(b)(1)(E): Possession with Intent to
Distribute Buprenorphine; 18 U.S.C. § 2:
Aiding and Abetting;

Count 8: 18 U.S.C. § 1791(a)(2):
Possession of Contraband in Prison; 18
U.S.C. § 2: Aiding and Abetting.

THIRD SUPERSEDING INDICTMENT

The Grand Jury charges:

INTRODUCTORY ALLEGATIONS

THE SYNDICATO DE NUEVO MEXICO GANG

1. At various times relevant to this Indictment, the defendant, **ROBERT PADILLA, a.k.a. "Fat Head,"** was an associate of the Sindicato de Nuevo Mexico ("SNM") Gang, a criminal organization whose members, prospects, and associates engaged in acts of violence and other criminal activities, including murder, kidnapping, attempted murder, conspiracy to manufacture/distribute narcotics, extortion, and firearms trafficking. At all relevant times, the SNM Gang operated in the District of New Mexico and elsewhere.

2. The SNM Gang, including its leadership, membership, prospects, and associates, constituted an enterprise as defined in Title 18, United States Code, Section 1959(b)(2), that is, a group of individuals associated in fact that engaged in, and the activities of which affected, interstate and foreign commerce. The enterprise constituted an ongoing organization whose members, prospects and associates functioned as a continuing unit for a common purpose of achieving the objectives of the enterprise.

GENERAL BACKGROUND

3. The Sindicato de Nuevo Mexico Gang ("SNM"), Spanish for Syndicate of New Mexico, is a powerful and violent prison gang which controls drug distribution and other illegal activities within the New Mexico penal system and is also involved in street-level narcotics trafficking. It was formed in the early 1980s at the Penitentiary of New Mexico ("PNM") after a prison riot at the penitentiary in February 1980. During the prison riot, twelve correctional officers were taken hostage and several of them were seriously assaulted and raped by inmates. Thirty-three inmates were killed during the riot, and more than two hundred were injured.

4. Following the prison riot, the SNM Gang expanded throughout the New Mexico penal system and has bolstered as many as 500 members since the early 1980s. Currently, the

SNM Gang is comprised of at least 200 active members, who are known as “hermanos,” “brothers,” “carnales,” “dons,” “jefes,” “big hommies,” or “Zia manos” and who control the gang. The SNM Gang operated under a “panel” or “tabla” (Spanish for table) of leaders who issued orders to subordinate gang members.

5. Despite being imprisoned and being closely scrutinized by prison officials, SNM Gang leaders managed to convey orders to SNM Gang members and associates throughout the prison system and outside the prison system through a variety of means, including secret notes, called “kites,” or “welas,” coded letters, and messages conveyed by complicit visitors. When SNM Gang members or associates completed their sentences and rejoined their communities, they were expected to remain loyal to the SNM Gang and to work to further the goals of the SNM Gang outside the prison environment. Members who fail to show continued loyalty to the gang are disciplined in various ways, to include murder and assaults. One of the significant goals of the SNM Gang is to control and profit from narcotics trafficking.

6. In addition to exerting its control in the New Mexico penal system, the SNM Gang also operated on the streets of New Mexico by intimidating and influencing smaller New Mexico Hispanic gangs for the purpose of establishing a larger network for the SNM’s illegal activities. If a gang does not accede to the SNM Gang’s demands, the SNM Gang assaults or kills the gang’s members who are not in custody as well as those members who are incarcerated within the New Mexico penal system. In addition to intimidation through direct assaults, the SNM Gang is also able to assert control and influence over gang members outside the penal system because gangs do not want their members outside the penal system to be assaulted or killed, and because the gang members know that, if they are incarcerated, they will need the protection of the SNM Gang while they serve their sentences.

7. The SNM Gang has been and continues to be engaged in a fierce and violent war with rival gangs, to include the Barrio Azteca, Los Carnales, and Burqueños gangs. Within the prison system, this rivalry manifested itself in beatings and stabbings, which often result in death. Outside the prison system, the SNM Gang fights for control of territory in which to conduct narcotics trafficking and other crimes, as well as to recruit and influence non-gang members. In addition to fighting for control over numerous illegal activities and using violence and terror for the purpose of enriching themselves, the SNM Gang also engages in violence simply to assert its gang identity, to claim or protect its territory, to challenge or respond to challenges, to retaliate against a rival gang or member, to gain notoriety and show its superiority over others, and to send a message to others that it is strong, powerful and not to be provoked.

8. The SNM Gang seeks to maintain its reputation for being strong and powerful and maintains its membership to continue functioning as an organization in prison and on the streets. If the SNM Gang is perceived as being weak, then rival gangs can challenge and assault its members and take over its territory. This can cause the gang to lose membership and eventually dissolve. The SNM Gang maintains a large membership and a reputation for being strong, powerful and dominant so that rival gangs will reconsider challenging it and victims/witnesses are less likely to assist authorities with any prosecution attempts against it. This allows the gang to grow in strength, thrive in its criminal activity, and dominate its territory. A member or associate of the SNM Gang is expected to seek out and beat, stab, or shoot rival gang members. Similarly, a member or associate of the SNM Gang is expected to confront and attack any suspected informants, cooperating witnesses, or sex offenders.

9. SNM Gang members identify themselves with the Zia symbol and the letters "SNM" or "S," which represents the "Syndicato de Nuevo Mexico," or "Syndicato" which is Spanish for Syndicate. SNM Gang members also utilize the number "19" which represents the

19th letter of the alphabet, “S,” and “505,” which corresponds with the area code for the greater Albuquerque area.

10. As with the numbers “19,” and “505,” the letters “S” or “SNM,” the Zia symbol, and the Spanish word “Syndicato” are commonly, but not exclusively, displayed by SNM Gang members in tattoos, graffiti, drawings, and on clothing, as a way of displaying affiliation, loyalty, and commitment to the gang.

11. The SNM Gang claims the entire state of New Mexico as its territory. The state is divided into four geographical “rayos,” or regions, with one or more leaders per region. “Rayo” leaders are responsible for all SNM Gang members and SNM Gang business within that region. Additionally, at various relevant times, each New Mexico Corrections Department (“NMCD”) Facility had one or more SNM Gang leaders, referred to as “llaveros,” or key holders.

ROLES OF THE MEMBERS AND ASSOCIATES

12. Leaders of the enterprise direct or delegate the power to direct other members or associates of the enterprise to carry out unlawful and other activities in furtherance of the conduct of the enterprise’s affairs.

13. As an associate of the enterprise, the defendant, **ROBERT PADILLA, a.k.a. “Fat Head,”** participated in unlawful and other activities in furtherance of the conduct of the enterprise’s affairs.

PURPOSES OF THE SNM GANG

14. The purposes of the SNM Gang enterprise include the following:

a. Preserving and protecting the power, territory, reputation, and profits of the enterprise through the use of intimidation, violence, threats of violence, assaults, and murder;

b. Promoting and enhancing the enterprise and the activities of its members and associates through criminal acts, including, but not limited to acts involving, murder, drug trafficking, vehicle theft, robberies, and other criminal activities;

c. Keeping victims, potential victims, witnesses, and community members in fear of the enterprise, its members, and associates through violence and threats of violence;

d. Protecting the enterprise's members and associates who commit crimes by hindering, obstructing, and preventing law enforcement officers from identifying, apprehending, and prosecuting and punishing the offenders;

e. Providing information to members and associates of the enterprise, including those who are incarcerated, for the purpose of committing acts of violence, robbery, distribution of controlled substances, and other offenses; and

f. Providing financial support and information to SNM Gang members and associates, including those members and associates who are incarcerated.

MEANS AND METHODS OF THE ENTERPRISE

15. Among the means and methods used by SNM Gang members and associates who conducted and participated in the conduct of the affairs of the SNM Gang are the following:

a. Members and associates of the enterprise committed, conspired, attempted, and threatened to commit acts of violence, including murders and assaults, to protect and expand the enterprise's criminal operations.

b. To generate income, members and associates of the enterprise trafficked in controlled substances, extorted narcotics traffickers and committed robbery.

c. To perpetuate the enterprise, members and associates of the enterprise discussed the membership, rules, and enforcement of the rules of the SNM Gang; the status of SNM Gang members and associates who were arrested or incarcerated; the discipline of SNM

Gang members; SNM Gang members' encounters with law enforcement; the identities of individuals suspected of cooperating with law enforcement and the proposed actions to be taken against them; and plans and agreements regarding the commission of future crimes, including murder, drug distribution, possession of firearms, and assault, as well as ways to conceal these crimes.

d. Members and associates of the enterprise conceal from law enforcement the way in which the enterprise conducts its affairs; the locations where enterprise members and associates discuss and conduct the affairs of the enterprise; the locations where enterprise members store and possess weapons and narcotics; and the locations where enterprise members maintain the proceeds from narcotics trafficking.

e. Members and associates of the SNM Gang also use violence to impose discipline within the SNM Gang.

f. Members and associates of the SNM Gang agree to distribute narcotics and commit other crimes, and to conceal their criminal activities by obstructing justice, threatening and intimidating witnesses, and other means.

Count 1

Murder of L.L.

Paragraphs one through fifteen of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

The SNM gang enterprise, through its members and associates, engaged in racketeering activity as defined in 18 U.S.C. §§ 1959(b)(1) and 1961(1), that is, acts and threats involving murder, robbery, and extortion in violation of New Mexico law, acts indictable under 18 U.S.C. §§ 1503, 1512, and 1513 and offenses involving trafficking in narcotics in violation of 21 U.S.C. §§ 841 and 846.

On or about July 22, 2019, in San Miguel County, in the District of New Mexico, for the purpose of gaining entrance to and maintaining and increasing position in the SNM Gang, an enterprise engaged in racketeering activity, the defendant, **ROBERT PADILLA, a.k.a. "Fat Head,"** unlawfully, knowingly, and intentionally murdered L.L., in violation of NMSA 1978, Sections 30-2-1 and 30-1-13.

In violation of 18 U.S.C. §§ 1959(a)(1) and 2.

Count 2

Retaliation Against a Witness, Victim, and Informant

On or about July 22, 2019, in San Miguel County, in the District of New Mexico, the defendants, **ROBERT PADILLA, a.k.a. "Fat Head,"** and **GARY COCA,** killed L.L. with the intent to retaliate against L.L. for providing to a law enforcement officer information relating to the commission of a Federal offense.

In violation 18 U.S.C. §§ 1513(a)(1)(B) and 2.

Count 3

Killing While Engaged in Drug Trafficking

From on or about September 17, 2018, and continuing to on or about September 10, 2019, in Bernalillo County, in the District of New Mexico, and elsewhere, the defendant, **ROBERT PADILLA, a.k.a. "Fat Head,"** while engaged in an offense punishable under 21 U.S.C. § 841(b)(1)(A), to wit: conspiracy to distribute a controlled substance, which offense involved (a) 5 kilograms and more of a mixture and substance containing a detectable amount of cocaine, (b) 1 kilogram and more of a mixture and substance containing a detectable amount of heroin, (c) 400 grams and more of a mixture and substance containing a detectable amount of fentanyl (N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propenamide), knowingly and

intentionally killed and caused the intentional killing of another person, L.L., and such killing resulted.

In violation of 21 U.S.C. § 848(e)(1)(A), and 18 U.S.C. § 2.

Count 4

Using, Carrying, Brandishing, Possessing in Furtherance of, and Discharging a Firearm
During and in Relation to, a Crime of Violence or Drug Trafficking Crime and
Causing Death Through Use of the Firearm

On or about July 22, 2019, in San Miguel County, in the District of New Mexico, the defendant, **ROBERT PADILLA, a.k.a. "Fat Head,"** knowingly used, carried, and brandished, during and in relation to a crime of violence and drug trafficking crime for which the defendant may be prosecuted in a court of the United States, specifically, violent crimes in aid of racketeering (murder) as charged in Count 1 of this indictment, and killing while engaged in drug trafficking as charged in Count 3 of this indictment; and possessed and brandished said firearm in furtherance of such crimes; and the firearm was discharged; and in the course of said offenses caused the death of L.L. through the use of a firearm, which killing is a murder as defined in 18 U.S.C. § 1111(a).

In violation of 18 U.S.C. §§ 924(c)(1)(A)(ii) and (iii), 924(j)(1), and 2.

Count 5

Tampering with a Witness, Victim or Informant by Physical Force or Threat

On or about November 25, 2020, in Cibola County, in the District of New Mexico, the defendant, **ROBERT PADILLA, a.k.a. "Fat Head,"** used and attempted to use physical force and the threat of physical force against P.G. with the intent to influence, delay, or prevent P.G. from communicating with a law enforcement officer information relating to the commission of Federal offenses, that is, drug trafficking and the murder of a federal witness.

In violation of 18 U.S.C. §§ 1512(a)(2)(C) and 2.

Count 6

Conspiracy

From on or about June 2022, and continuing to on or about September 21, 2022, in Santa Fe County, in the District of New Mexico, and elsewhere, the defendant, **ROBERT PADILLA, a.k.a. "Fat Head,"** unlawfully, knowingly and intentionally combined, conspired, confederated, agreed, and acted interdependently with other persons whose names are known and unknown to the Grand Jury to commit an offense defined in 21 U.S.C. § 841(a)(1), specifically, distribution of a controlled substance.

Quantity of Buprenorphine (Suboxone) Involved in the Conspiracy

With respect to **ROBERT PADILLA, a.k.a. "Fat Head,"** the amount of buprenorphine involved in the conspiracy attributable to him as a result of his own conduct, and the conduct of other conspirators reasonably foreseeable to him, is a mixture and substance containing a detectable amount of buprenorphine, contrary to 21 U.S.C. §§ 841(a)(1) and 21 U.S.C. § 841(b)(1)(E).

In violation of 21 U.S.C. § 846.

Count 7

Possession with Intent to Distribute Buprenorphine

On or about September 6, 2022, in Santa Fe County, in the District of New Mexico, the defendant, **ROBERT PADILLA, a.k.a. "Fat Head,"** unlawfully, knowingly, and intentionally possessed with intent to distribute a controlled substance, and the offense involved a mixture and substance containing a detectable amount of buprenorphine.

In violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(E), and 18 U.S.C. § 2.

Count 8

Possession of Contraband in Prison

On or about September 6, 2022, in Santa Fe County, in the District of New Mexico, the defendant, **ROBERT PADILLA, a.k.a. "Fat Head,"** an inmate of the Penitentiary of New Mexico, a facility in which persons are held in custody by direction of and pursuant to a contract and agreement with the Attorney General, possessed a prohibited object, specifically, buprenorphine.

In violation of 18 U.S.C. §§ 1791(a)(2) and 2.

A TRUE BILL:

/s/

FOREPERSON OF THE GRAND JURY

Randy Castella

Assistant United States Attorney

M. O.
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